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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,091	01/29/2004	Mridula Kini	J2066(C)	5051
201	7590	11/18/2005	EXAMINER	
UNILEVER INTELLECTUAL PROPERTY GROUP 700 SYLVAN AVENUE, BLDG C2 SOUTH ENGLEWOOD CLIFFS, NJ 07632-3100			YU, GINA C	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,091

Applicant(s)

KINI ET AL.

Examiner

Gina C. Yu

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/30/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claims 1 and 3 are objected to because of the following informalities: the recitation of Claim 1 is grammatically incorrect. See Claim 1, a) and c). Claim 3 is missing a period. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson et al. (WO 00/62740).

Claim 1 is directed to a composition comprising a) 0.05-10 % by weight of one or more of vitamin B3 compounds or derivatives thereof; b) 0.01-10 % by weight of allantoin; and c) a cosmetically acceptable vehicle or 15-85 % by weight of a detergent active.

Robinson et al. disclose a skin cream composition comprising 3.5 % of niacinamide, 0.2 % of allantoin, and 2 % of titanium dioxide. See Example 6; instant claims 1, 2, 5-7, 9, 11, and 12. See also Examples 7, 9-11. Examples 12 and 16 also meets the same claims as the formulations contain 2 % of niacinamide, 0.2% of allantoin, and 2 % of 4,4'-t-butyldimethoxydibenzoylmethane. The reference also teaches varying the formulations into cleansers such as toilet bars. See p. 27, 2nd full par. – 3rd

par. See instant claims 10 and 13. The reference also discloses vitamin B3 compounds and their derivatives that are useful for the invention, which include nicotinic acid, nicotiny alcohol, esters of nicotinic acid esters, nicotiny amino acids, nicotiny alcohol esters of carboxylic acids, nicotinic acid N-oxide and niacinamide N-oxide. See p. 6, 2nd full par. – p. 8, 2nd par. See instant claim 3. Tocopherol nicotinate, a nicotinic acid ester, is one of the preferred compounds.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson et al. (WO 00/62740) as applied to claims 1-7 and 9-13 as above, and further in view of Biedermann et al. (US 5833998).

Robinson et al. teach that the skin care composition is useful for regulating the condition of skin. See col. 3, line 66 – col. 4, line 65. While Robinson et al. teach further incorporating vitamins and cosmetic actives, the prior art differs from the present invention as it fails to specifically teach vitamin B₆ compound.

Biedermann et al. teach vitamin B complex topical composition for regulating the oily and/or shiny appearance of skin. The composition contains niacinamide or a mixture of niacinamide and a compound selected from pyridoxine (vitamin B₆), panthenol, and pantothenic acid. See col. 4, lines 22 – 36. The reference teaches that

pyridoxine treats acne and skin inflammation and is used in antioxidant therapy. See col. 1, lines 66-col. 2, line 3. The reference teaches formulating the compositions in the form of lotions, creams and emulsions. See col. 4, lines 43 – 62.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the composition of Robinson et al. by incorporating pyridoxine (vitamin B6) as motivated by Biedermann et al. because i) both prior arts are directed to topical compositions comprising vitamin B3 compounds that control skin conditions; and 2) Biedermann et al. teach combining niacinamide with pyridoxine to make a oil/shine control composition. The skilled artisan would have had a reasonable expectation of successfully producing a stable cosmetic composition with the cosmetic benefits that are taught by the references since both references teach lotion and cream formulations.

Conclusion

No claims are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6444647 B1, US 6224888 B1, WO 02/03952 A2.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-8605. The examiner can normally be reached on Monday through Friday, from 9:00AM until 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gina Yu
Patent Examiner



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER